

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2019-077-10124R

Parcel No. 060/08097-001-000

Robin Lawrence,

Appellant,

vs.

Polk County Board of Review,

Appellee.

Introduction

The appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on March 10, 2020. Robin Lawrence was represented by her father Robert Berger. Assistant County Attorney David Hibbard represented the Polk County Board of Review.

Lawrence owns a residential property located at 2014 East 40th Court, Des Moines. Its January 1, 2019, assessment was set at \$177,900, allocated as \$20,600 to land value and \$157,300 to improvements. (Exs. A & B).

Lawrence petitioned the Board of Review claiming her assessment was not equitable as compared with the assessments of other like property. Iowa Code § 441.37(1)(a)(1) (2019). The Board of Review denied the petition.

Lawrence reasserted her equity claim to PAAB and also asserted her property was assessed for more than the value authorized by law. § 441.37(1)(a)(1 & 2).

General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. PAAB is an agency and the provisions of the Administrative Procedure Act apply. § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB may consider any grounds under Iowa Code section 441.37(1)(a) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code R. 701-126.2(2-4). New or additional evidence may be introduced. *Id.* PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct, but the taxpayer has the burden of proof. §§ 441.21(3); 441.37A(3)(a). The burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 396 (Iowa 2009) (citation omitted).

Findings of Fact

The subject property is a split-foyer home built in 2012. It has 1082 square feet of gross living area, 530 square feet of living-quarters quality basement finish, a deck, a patio, and a one-car attached garage. The improvements are listed in normal condition with a 4+05 Grade (average quality). The site is 0.145 acres. (Ex. A).

Robert Berger testified on Lawrence's behalf. He indicated the subject was built in an older neighborhood as part of a redevelopment project and he believed the value would remain low in the future. He described the area as having mostly older homes and indicated the house next door and the house across the street are rental properties that are poorly kept and have junk in the yards. He explained homes located a half block south of the subject were torn down because they were located in a flood plain and believes this negatively impacts the subject's appeal and value. Berger also asserts

the subject's garage is a detriment because it reduces the size of the basement and potential additional living area.

Lawrence submitted four properties she believes support her claims. (Exs. 3-7).

Comparable Address	Site Size (SF)	Year Built	Gross Living Area (SF)	Basement Finish	Garage	Grade	Condition	Assessed Value
Subject	6300	2015	1082	530	1-Att	4+05	Normal	\$177,900
1 - 1904 Williams	8600	2010	1049	0	Det	4+05	Normal	\$148,700
2 - 2018 E 40th Ct	6300	2012	1082	936	Det	4+05	Normal	\$182,000
3 - 2215 E 40th Ct	6288	2015	840	722	None	4+00	Normal	\$142,400
4 - 2100 E 40th Ct	6300	1980	1686					UNKNOWN

Berger testified 1904 Williams is “exactly the same” as the subject property but has a larger detached garage, deck, and lot. Despite these superior features, he noted it is assessed for nearly \$30,000 less than the subject property. (Ex. 3).

Another property located at 2215 East 40th Court is newer like the subject property and has a similar size lot and gross living area but also has a much lower assessed value. (Ex. 6).

Berger reported the property at 2100 East 40th Court is located very close to the subject and has been listed for sale for an extended period of time with no offers. The property appears to be currently listed at \$169,900. (Ex. 7).

Lastly, he believes the Assessor's Office valued the subject property based on a single sale located at 2018 East 40th Court. It sold in May of 2019 for \$192,500. (Ex. 4). Berger asserts this was a “high sale” and it is not right to value a property based on one sale. He provided no other information to support these contentions.

Lawrence also submitted a Comparative Market Analysis (CMA) dated January 22, 2020. (Ex. 2). The report is not signed; and Lawrence explained she removed the agent's name from the report because she did not wish to get the realtor involved. The CMA sales are summarized in the following table.

Comparable	Year Built	Gross Living Area (SF)	Bsmt Finish	Sale Date	Sale Price
Subject	2012	1082	530	NA	NA
1 – 3933 E Tiffin Ave	1963	988	266	Jul-19	\$100,000
2 – 3506 E 39th Ct	1962	988	450	May-19	\$107,000
3 – 3327 Kinsey Ave	1960	1040	440	Oct-18	\$137,000
4 – 1308 E 27th Ct	1971	1164	0	Jan-19	\$137,500
5 – 3200 E 41st Ct	1964	1023	500	Oct-18	\$145,000
6 – 3817 E Ovid Ave	1963	988	400	Oct-19	\$143,000
7 – 4105 Leyden Ave	1974	984	500	Dec-19	\$145,000
8 – 3904 Richmond Ave	1963	988	0	Nov-18	\$155,500
9 – 3916 E 39th Ct	1965	988	300	Nov-19	\$152,000
10- 3312 Kinsey Ave	1975	1138	375	Apr-19	\$159,500

All of the properties are split-foyer homes like the subject and similar in size. However, they are all significantly older than the subject and were built between 1960 and 1975. The sales support Lawrence’s assertion the subject is located in an area of older homes.

Lawrence testified the CMA does not indicate a value for the subject but was “an analysis of what the market was in her area.” She explained the CMA simply reported the information she had requested to show property values in her area; it was not developed to conclude a value for her property. Lawrence used the information in the CMA to calculate the average price of properties in her neighborhood. In her opinion, the data supports her belief that her home would not sell for the assessed value.

Chief Deputy Assessor Amy Rasmussen testified on behalf of the Board of Review. She was critical of the CMA noting the condition and quality of each property was not reported. She explained some of the comparables were in below-average condition at the time of their sale and some were lower in quality of construction. Moreover, while the age of each comparable was listed, no adjustment for this difference compared to the subject was made. We note that all of the properties are at a minimum 37 years older than the subject property. While the comparables are located in

the subject's neighborhood, Rasmussen believes the differences in quality, age, and condition explain the variances between the subject's assessed value and the sale prices of the comparables.

Analysis & Conclusions of Law

Lawrence contends the assessment is not equitable as compared with assessments of other like property and that the subject property is assessed for more than authorized by law under Iowa Code section 441.37(1)(a)(1 & 2).

To prove inequity, a taxpayer may show an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Lawrence offered no evidence of the Assessor applying an assessment method in a non-uniform manner.

Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709 (Iowa 1965). The *Maxwell* test provides that inequity exists when, after considering the actual values (2018 sales) and assessed values (2019 assessments) of comparable properties, the subject property is assessed at a higher portion of its actual value. None of the properties Lawrence listed individually sold in 2018 but the CMA includes three 2018 comparable sales. The record does not include the assessed values for these properties, so no ratio can be calculated for them. One of Lawrence's comparables sold in 2019 for \$192,500; compared to its 2019 assessment of \$182,000, its ratio would be 0.95 suggesting it was slightly underassessed in 2019. However, Lawrence must also show the subject property's actual value to complete the ratio analysis. Since a showing of the subject's actual value is also required in an over assessment claim, we will forego further analysis of the inequity claim and turn our focus to that claim.

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 780 (Iowa 2009) (citation omitted).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* The sales comparison method is the preferred method for valuing property under Iowa law. *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d at 398; *Soifer*, 759 N.W.2d at 779; *Heritage Cablevision v. Bd. of Review of Mason City*, 457 N.W.2d 594, 597 (Iowa 1990).

The first step in this process is determining if comparable sales exist. *Soifer*, 759 N.W. 2d at 783. "Whether other property is sufficiently similar and its sale sufficiently normal to be considered on the question of value is left to the sound discretion of the trial court." *Id.* at 782 (citing *Bartlett & Co. Grain Co. v. Bd. of Review of Sioux City*, 253 N.W.2d 86,88 (Iowa 1977)).

Lawrence submitted a CMA of the subject that listed ten properties. However, none of the sales were adjusted for differences between them and the subject property despite differences in age, quality, and condition. "When sales of other properties are admitted, the market value of the assessed property must be adjusted to account for differences between the comparable property and the assessed property to the extent any differences would distort the market value of the assessed property in the absence of such adjustments." *Soifer*, 759 N.W.2d at 783. Further, given Lawrence's testimony that the report was not made to value the subject but to show market sales within her neighborhood, we do not believe it is indicative of a value for the subject property. Despite these properties being similar in size, location, and style, without adjustments for their differences such as age, we do not find they offer a reliable reflection of the subject property's fair market value as of January 1, 2019.

Viewing the record as a whole, we find Lawrence failed to support her claims.

Order

PAAB HEREBY AFFIRMS the Polk County Board of Review's action.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A.

Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order¹ and comply with the requirements of Iowa Code section 441.37B and Chapter 17A.



Dennis Loll, Board Member



Elizabeth Goodman, Board Member



Karen Oberman, Board Member

¹ Due to the State Public Health Disaster Emergency caused by the coronavirus (COVID-19), the deadline for filing a judicial review action may be tolled pursuant to orders from the Iowa Supreme Court. Please visit the Iowa Judicial Branch website at <https://www.iowacourts.gov/iowa-courts/supreme-court/orders/> for the most recent Iowa Supreme Court orders.

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